Schary, Claire

From: Schary, Claire
Sent: Thursday, February 06, 2014 3:22 PM
To: Bobby Cochran; hbre461@ECY.WA.GOV
Cc: Neil Mullane
Subject: RE: Thanks for the time today

I better get in my responses too since I will not be in the office Fri. or Mon. First, before I forget, as I recall the selenium trade in the Grasslands Irrigation District involved something like an enforceable load allocation to the Irrigation District, so the irrigation district set up their own trading program with their farmers, and could enforce it because they could make it part of the contract for delivering water to the farmer. It started with that enforceable load allocation that was implemented through a type of permit the state issued to the Irrigation District. When I read that (which was a long time ago), I decided it wasn't a useful example for Idaho.

As for your questions to me:
-- We'd like to include non-NPDES-regulated buyers as eligible buyers (e.g., people who want to buy water quality credits voluntarily, to offset other mitigation requirements, etc.). That OK?
I don't mind non-NPDES buyers being eligible. I assume their purchase would be recorded in the registry along with the serial numbers of the credits so that they couldn't be used again. There just won't be a way to retire the credits because they won't actually be used. (In the Acid Rain Program, people who bought allowances to remove them from the market didn't like the fact we couldn't officially retire them or remove them from our system, but instead they had to keep them in their accounts.)

-- Why should Supplemental Environmental Projects be allowed to generate credits for a reserve? Seems like these funds are to compensate for bad stuff, which seems to point to credit being retired.

I made that comment because I think SEPS are intended to do good while enforcing a financial penalty, so why not have the projects generate credits that can be used to do good, such as provide an insurance fund, with a requirement as to how many must be bought to be equivalent to a non-SEP credit. Similar to NRCS and other agencies not wanting us to tell them what to do with their grant $, I think the SEP negotiators can decide what must be done with the credits. Also, we want to keep the guidance to the designing the trading side, not go off on tangents such as putting limitations on the SEP side.

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From: Bobby Cochran [mailto:cochran@willamettepartnership.org]
Sent: Thursday, February 06, 2014 2:46 PM
To: hbre461@ECY.WA.GOV
Cc: Schary, Claire; Neil Mullane
Subject: Re: Thanks for the time today

These are great Helen, thanks.

For verification frequency, we can adjust the language. The challenge we're having in the Rogue River as WP is verifying each of TFT's shade projects onsite in years 1,5,10, and 15--and then verifying monitoring reports submitted in intervening years--creates a pretty significant transaction cost. I see value/necessity in more frequent verification for BMPs like fertilizer application or cover crops, but not necessarily for the more structural BMPs like manure lagoons, riparian forests, etc. I'll adjust the language to make room for a broader range of options, but try to maintain some minimum frequency.

For the nonpoint-nonpoint trades, they have happened very infrequently. The primary case I know is the Grasslands Irrigation District in CA that traded for selenium. Hydropower facilities are also considered nonpoint sources in some cases, and folks like PacifiCorp are doing work to offset their impacts as part of a 401 certification. Agreed that it is harder to tie down enforcement. In that section, we weren't recommending that NP-NP trades occur, but just saying that those kinds of trades are possible. Here's what we say:

"There are three types of water quality trades: point-point trades, point-nonpoint trades, and nonpoint-nonpoint trades. The focus of this document is primarily on point-nonpoint trades."

That OK?

On Thu, Feb 6, 2014 at 2:32 PM, Bresler, Helen (ECY) <HBRE461@ecy.wa.gov> wrote:

See responses below. We may still want to talk, but I thought I send my responses while our discussion is fresh in my mind.

Helen

From: Bobby Cochran [mailto:cochran@willamettepartnership.org]
Sent: Wednesday, February 05, 2014 7:44 PM
To: Claire Schary; Bresler, Helen (ECY); Neil Mullane
Subject: Thanks for the time today

Claire and Helen,

Thank you for the time you took today. It was helpful for us to clarify most of the outstanding issues from the first round of comments. Here are the things I still need to touch base with you two on. I'll try to give you a call on Friday, but if we miss each other, feel free to drop me an email.

Bobby and Neil

Both:

- Need to set up a call on the financial stuff (accounting treatment of credits, payment stacking, etc.)

- FYI--we did a re-write of the discussion of credit life, project life, and project protection period to straighten up the confusion

Claire:

- We'd like to include non-NPDES-regulated buyers as eligible buyers (e.g., people who want to buy water quality credits voluntarily, to offset other mitigation requirements, etc.). That OK?

- Why should Supplemental Environmental Projects be allowed to generate credits for a reserve? Seems like these funds are to compensate for bad stuff, which seems to point to credit being retired.

Helen:

- In Eligibility, you asked to delete reference to mixing zones. We're trying to be clear about how credits interact with compliance points. We found reference to mixing zones in WA statute, but is there something else you call these? I couldn’t find this deletion, however, I do remember commenting that ZID (zone of immediate dilution) is not a term we use in Washington. I believe that “mixing zone” is more generic, if so, we should use that term.

- In Ratios: One of the other commenters ask that we add a sentence saying that setting ratios too high can increase credit costs too high. This hits at that same Cost issue. Can we add this in the commentary, so long as we balance it with other considerations? I don’t like use of the word “too.” I think it’s fair to say that setting high ratios can increase credit costs. What’s too high, however, is situational and is not something we could possibly predict.

- In Verification: You wanted verification frequency to be a program-specific consideration. We're OK with that, but we're concerned that doesn't provide some sideboards around minimum frequencies. Some programs may want site visits to all sites in all years. Some may want site visits for some BMPs every 5 years. OK. But, I don't think we want 1 site visit in Year 1 and then never again? My intent was not to eliminate minimums. My comment suggests that I do not believe annual credit verification is often enough. I was especially struck by this because on page 65 in the first text box, annual verification is described as “frequent.” I would feel better if it was emphasized that annual is a minimum, but that more frequent (meaning more times per year than once) verification is recommended.

- In Verification: We had some language around how 1 bad monitoring report for one BMP does not represent the performance of the program as a whole. Many programs implement more BMPs than required, just so they have some cushion for some BMPs to fail. The concern is that if one BMP fails and that verification report is posted on a public website, then that report could be taken out of context. We re-wrote the language, so check out the new language. Where is the new language? I don’t really share this concern because if the entire story about a project is shared with the public, both successes and failures, and if the safeguards in place to ensure the trading program is performing overall are also shared, it actually gives the program more credibility than if there are a bunch of disclaimers about one underperforming BMP, or if things like that are not shared.

- In Adaptive Management: You suggest effectiveness monitoring for trading should be done together with TMDL monitoring. We agree, but if states aren't resourced to do this, should the trading program make sure it addresses that gap? Yes.

I'd also like to comment on the question about non-NPDES permitted purchasers that you posed to Claire. I made a comment somewhere in the document that I do not believe nonpoint to nonpoint trades are possible in water quality trading world. I know people mentioned these early on, but I see several problems with this concept. First, with no mechanism to tie down the trade, there is no way to ensure that it will actually do what it's supposed to do. Second, and perhaps more of a fatal flaw, in Washington and in many other states I think, there is a prohibition against discharging pollutants to state waters at all without a permit. Allowing this kind of trade implies that the purchaser not only gets to pollute, but gets to pollute even more than it was polluting before. Why would we do this? There may be a place for this kind of trade for purposes other than those that water quality regulatory agencies have an interest in, but I don't see how this promotes our objective of pollutant elimination.